

#10 DAE



Patents

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: )

Isabelle Guyon et al. )

Serial No. 10/057,849 )

Filed: January 24, 2002 )

For: METHODS OF IDENTIFYING )  
PATTERNS IN BIOLOGICAL SYSTEMS )  
AND USES THEREOF )

Examiner: Unknown

Art Unit: 2122

**REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. § 1.47(b)**

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

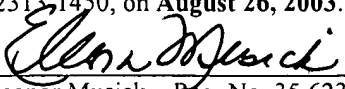
Sir:

Applicants request reconsideration of the Petition under 37 C.F.R. §1.47(b), filed December 26, 2002, for the above-referenced application. Applicants herein provide incontrovertible evidence that the uncooperative co-inventors received the application papers (Specification, Claims, Drawings and Declaration and Power of Attorney document); and a showing that such action is required to prevent irreparable damages.

The two co-inventors, Isabelle Guyon and Jason Weston, refuse to sign documents relating to the filing of this application. BIOwulf Technologies, LLC, (also known as BIOwulf, LLC), and the Attorneys of Record have used diligent efforts in communicating with co-inventors Isabelle Guyon and Jason Weston. Both co-inventors have

---

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on August 26, 2003.

  
Eleanor Musick - Reg. No. 35,623

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AUG 29 2003

OFFICE OF PETITIONS

***REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. § 1.47(b)***

***Serial No. 10/057,849***

***Page 2***

refused to cooperate and continue to refuse to cooperate in completing the documents necessary to complete the filing of the above-referenced application.

The Declaration of Eleanor Musick, Attorney of Record, provides evidence of receipt of the complete application including the Specification, Claims, Drawings and a Declaration and Power of Attorney by Isabelle Guyon and Jason Weston, and are included with this Request for Reconsideration, along with Exhibits U, V, W, and X.

Although they had been previously sent to the inventors in accordance with our normal regular procedure, in response to the refusal of Applicants' last petition, a duplicate set of complete copies of the Specification, Claims, Drawings, and Declaration and Power of Attorney were sent to Jason Weston and Isabelle Guyon on July 28, 2003. (See Exhibits U and V). Isabelle Guyon and Jason Weston both signed for the packages containing the Specification, Claims, Drawings and Declaration and Power of Attorney. (See Exhibits X and Y) Both Jason Weston and Isabelle Guyon have therefore received at least one complete copy of the above-referenced application as well as the Declaration and Power of Attorney documents requiring their signatures.

Isabelle Guyon has acknowledged receipt of a complete copy of the Specification, Claims, Drawings and Declaration and Power of Attorney and has expressly refused to execute the Declaration and Power of Attorney document. (Exhibit W).

Jason Weston signed for the package containing a complete copy of the Specification, Claims, Drawings and Declaration and Power of Attorney. (See Exhibit X). We have received no communication from Jason Weston.

As stated in the Declaration of Stephen Barnhill, the failure of the U.S. Patent and Trademark Office to grant a filing date for and examine the above-referenced application

***REQUEST FOR RECONSIDERATION OF PETITION UNDER 37 C.F.R. § 1.47(b)***

***Serial No. 10/057,849***

***Page 3***


will cause irreparable damage to BIOwulf Technologies, LLC, in that BIOwulf Technologies, LLC, will not be able to preserve the patent rights for an invention arising from research that the company conducted and funded.

BIOwulf Technologies, LLC, and Attorneys of Record have repeatedly contacted Isabelle Guyon and Jason Weston. Isabelle Guyon and Jason Weston have failed to execute documents necessary for the filing of the above-referenced patent application. Therefore, BIOwulf Technologies, LLC, requests that the Petition to declare Isabelle Guyon and Jason Weston uncooperative inventors be reconsidered and granted so that the rights in the invention held by BIOwulf Technologies, LLC, will be maintained, and that the patent application can proceed to examination by the U.S. Patent and Trademark Office.

Should any further fees be required for this reconsideration, please charge them to the Deposit Account 11-0855.

Respectfully submitted,

KILPATRICK STOCKTON LLP

By:   
Eleanor Musick  
Attorney for Applicants

KILPATRICK STOCKTON LLP  
Suite 2800  
1100 Peachtree Street  
Atlanta, GA 30309-4530  
404-745-2461  
Our Docket: 02331-0161 (42286-267669)



Patents

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of:

Isabelle Guyon et al.

Serial No. 10/057,849

Filed: January 24, 2002

For: METHODS OF IDENTIFYING PATTERNS IN  
BIOLOGICAL SYSTEMS AND USES THEREOF)

Examiner: Unknown

Art Unit: 2122

DECLARATION OF ELEANOR MUSICK

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

Sir:

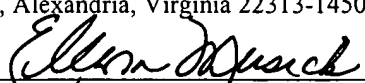
I, Eleanor Musick, having first-hand knowledge of the facts recited herein, declare as follows:

1. A complete copy of the Specification including Claims, Drawings, and Declaration and Power of Attorney were sent to the last known addresses of Isabelle Guyon and Jason Weston. (See Exhibit U and V).

2. Isabelle Guyon signed and returned a refusal to execute and return the Declaration and Power of Attorney. (See Exhibit W).

3. Jason Weston signed for the Federal Express package containing the Specification including Claims, Drawings and Declaration and Power of Attorney on July 31, 2003. (See Exhibit X).

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on August 26, 2003.

  
Eleanor Musick - Reg. No. 35,623

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OFFICE OF PETITIONS

***DECLARATION OF ELEANOR MUSICK***

***Serial No. 10/057,849***

***Page 2***

4. No response has been received from Jason Weston.

The undersigned declares further that all statements made herein of her own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine, or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of any patent issuing on this application.

Date: 26 Aug. 2003

  
Eleanor Musick

Our Docket No.: 02331-0161 (42286/267669)

July 28, 2003

direct dial 404 541 6681  
direct fax 404 541 3317  
EMusick@KilpatrickStockton.com

VIA FEDERAL EXPRESS

Isabelle Guyon, Ph.D.  
955 Creston Road  
Berkeley, CA 94708

**Re: U.S. Patent Application for "Methods for Identifying Patterns in  
Biological Systems and Uses Thereof"**  
**Inventors: Isabelle Guyon; Jason Weston**  
**Serial No. 10/057,849 Filed: January 24, 2002**  
**Our Ref: 02331-0161 (42286/267669)**

Dear Dr. Guyon:

As you may recall, we have sent copies of the above-referenced application, drawings and declaration to you on at least one prior occasion. For reasons you have explained in your correspondence with Marge Webber and Steve Barnhill, you are unable to execute the declaration because of the significant amount of work that would be required to review the lengthy application.

In order to provide satisfactory evidence of compliance with the requirements of the U.S. Patent and Trademark Office for obtaining consideration of the application in the absence of your signed declaration, we are once again sending the enclosed documents to you. While it would most helpful if you would review the application, claims and drawings and sign the declaration, I will understand if you choose to maintain your prior position. In the latter case, I would appreciate it if you could complete the enclosed "Inventor Response" and return it to me.

Enclosed with the application documents is a self-addressed, pre-paid Federal Express envelope in which you may return either the signed declaration or the completed "Inventor Response". Alternatively, please return either document to me by facsimile using the enclosed fax transmittal.

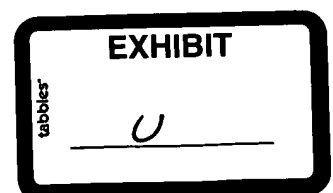
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ATLLIB01 1558464.1 [2003.G25]

ATLANTA AUGUSTA CHARLOTTE LONDON RALEIGH STOCKHOLM WASHINGTON WINSTON-SALEM



Isabelle Guyon, Ph.D.  
July 28, 2003  
Page 2

I apologize for troubling you with this matter yet again and appreciate your patience.

Please feel free to contact me if you have any questions or concerns.

Cordially yours,



Eleanor M. Musick

Enclosures: Application (124 pages including 10 claims)  
Drawings (Figures 1-31)  
Declaration and Power of Attorney (2 pages)  
Inventor Response  
Fax transmittal  
Self-addressed, pre-paid FedEx envelope

# FedEx® USA Airbill

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Phone (404) 815-6500

Company KILPATRICK STOCKTON LLP

Address 1100 PEACHTREE ST NE STE 2800

Drop Floor/Room/Room

City ATLANTA

State GA

ZIP 30309

## 2 Your Internal Billing Reference

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## 3 To

Recipient's Name Isabelle Guyon, Ph.D.

Phone ( )

Company

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☐ NEW FedEx Extra Hours

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☐ FedEx 2Day Freight

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## 5 Packaging

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☐ FedEx Pak\* includes FedEx Small Pak, FedEx Large Pak, and FedEx Surety Pak.

☐ Other Pkg. includes FedEx Box, FedEx Tube, and customer pkg.

## 6 Special Handling

☐ SATURDAY Delivery Available ONLY for FedEx Priority Overnight and FedEx 2Day to select ZIP codes

☐ HOLD Weekday at FedEx Location NOT Available for FedEx First Overnight

☐ HOLD Saturday at FedEx Location Available ONLY for FedEx Priority Overnight and FedEx 2Day to select locations

Does this shipment contain dangerous goods?

☐ No ☐ Yes

☐ Shipper's Declaration required

☐ Shipper's Declaration not required

☐ Dry Ice ☐ Dry Ice in IBC ☐ Cargo Aircraft Only

## 7 Payment Bill to

☐ Sender ☐ Recipient ☐ Third Party ☐ Credit Card ☐ Cash/Check

Enter FedEx Acct. No. or Credit Card No. below.

☐ Cash/Check

FedEx Acct. No. Credit Card No.

Exa.

Total Packages

Total Weight

\$

Total Declared Value\*

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\*Our liability is limited to \$100 unless you declare a higher value. See back for details.

## 8 Release Signature

Sign to authorize delivery without obtaining signature.

By signing you authorize us to deliver this shipment without obtaining a signature and agree to indemnify and hold us harmless from any resulting claims.

447

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Attorneys at Law

Suite 2800 1100 Peachtree St.  
Atlanta GA 30309-4530  
t 404 815 6500 f 404 815 6555  
www.KilpatrickStockton.com

Date: \_\_\_\_\_, 2003

direct dial 404 541 6681  
direct fax 404 541 3317  
EMusick@KilpatrickStockton.com

## FAX

RECIPIENT/ PHONE NO.	FAX NO.	COMPANY/ CITY, STATE, COUNTRY
Eleanor Musick 404-541-6681	404-815-6555	Kilpatrick Stockton Atlanta, GA
Janina Malone 404-745-2421	404-815-6555	Kilpatrick Stockton Atlanta, GA

Isabelle Guyon

FROM

2

PAGES (WITH COVER)

8936

REFERENCE NO

42286/267669

CLIENT/MATTER NO.

**PLEASE CALL 404 815 6497 IF YOU HAVE DIFFICULTY WITH THIS TRANSMISSION.**

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### COMMENTS

Inventor's Response (02331/0161)

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## INVENTOR'S RESPONSE

With regard to U.S. Patent Application for "Methods for Identifying Patterns in Biological Systems and Uses Thereof", Serial No. 10/057,849, filed January 24, 2002, on which I have been named an inventor, I, Isabelle Guyon:

(pls. check ( ✓ or ✕ where applicable)

\_\_\_\_\_ have received a copy of each of the listed documents:  
\_\_\_\_\_ application entitled "Methods for Identifying Patterns in Biological Systems and  
Uses Thereof" (124 pages total including 10 claims)  
Drawings (Figures 1-31)  
Declaration and Power of Attorney (2 pages)

\_\_\_\_\_ refuse to or am otherwise unable to execute and return the enclosed declaration.

for the following reasons (optional): \_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dated: \_\_\_\_\_

Signed: \_\_\_\_\_  
Isabelle Guyon



**KILPATRICK  
STOCKTON LLP**

Attorneys at Law

Suite 2800 1100 Peachtree St.  
Atlanta GA 30309-4530  
t 404 815 6500 f 404 815 6555  
www.KilpatrickStockton.com

July 28, 2003

direct dial 404 541 6681  
direct fax 404 541 3317  
EMusick@KilpatrickStockton.com

VIA FEDERAL EXPRESS

Jason Weston, Ph.D.  
20 Burhill Way  
St. Leonard's on Sea  
Sussex TN 38 OXP  
UNITED KINGDOM (GB)

**Re: U.S. Patent Application for "Methods for Identifying Patterns in  
Biological Systems and Uses Thereof"**  
**Inventors: Isabelle Guyon; Jason Weston**  
**Serial No. 10/057,849 Filed: January 24, 2002**  
**Our Ref: 02331-0161 (42286/267669)**

Dear Dr. Weston:

As you may recall, we have sent copies of the above-referenced application, drawings and declaration to you previously by both e-mail and Federal Express. As we have confirmed delivery of our prior transmissions and you have not responded, we have assumed that you are unable to or have refused to execute and return the declaration regarding inventorship.

In order to provide satisfactory evidence of our compliance with the requirements of the U.S. Patent and Trademark Office for obtaining consideration of the application in the absence of your signed declaration, we are once again sending the enclosed documents to you. While it would most helpful if you would review the application, claims and drawings and sign the declaration, I will understand if you choose to maintain your prior apparent position. In the latter case, I would appreciate it if you could complete the enclosed "Inventor Response" and return it to me.

Enclosed with the application documents is a self-addressed, pre-paid Federal Express envelope in which you may return either the signed declaration or the completed "Inventor Response". Alternatively, please return either document to me by facsimile using the enclosed fax transmittal.

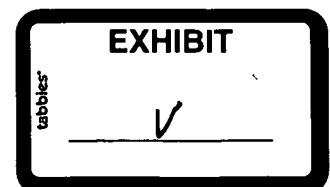
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Jason Weston, Ph.D.

July 28, 2003

Page 2

I apologize for troubling you with this matter yet again and appreciate your patience.

Please feel free to contact me if you have any questions or concerns.

Cordially yours,



Eleanor M. Musick

Enclosures: Application (124 pages including 10 claims)  
Drawings (Figures 1-31)  
Declaration and Power of Attorney (2 pages)  
Inventor Response  
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Country USA ZIP Postal Code 303094530

To Recipient's Name Jason Weston, Ph.D.  
Phone

Company

Address 20 Burhill Way

Address St. Leonard's on Sea

City Sussex State Province

Country UNITED KINGDOM (GB) ZIP Postal Code TN 38 OXP

Recipient's Tax I.D. number for Customs purposes  
e.g. GST/VAT/PAEN, or as locally required

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Total Packages Shipper's Load and Count/SLAC  
Total Weight  
lbs. in. kg DIM L / W / H cm

Commodity Description REQUIRED	Harmonized Code	Country of Manufacture	Value for Customs REQUIRED
Legal Documents			
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For U.S. Export Only: Check One <input type="checkbox"/> No SED required per Exemption <input type="checkbox"/> SED attached (provide export license no. and exp. date or license exception symbol, w/ECCN if applicable)			For EU Only: Tick here if goods are not in free circulation and provide CL <input type="checkbox"/> No SED required, value \$2500 or less per Schedule B Commodity number Total Declared Value for Carriage 0 Total Value for Customs (Specify Currency)

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6a Special Handling  
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direct fax 404 541 3317  
EMusick@KilpatrickStockton.com

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Jason Weston  
FROM

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for the following reasons (optional): \_\_\_\_\_  
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\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

Dated: \_\_\_\_\_

Signed: \_\_\_\_\_  
Jason Weston

**KILPATRICK  
STOCKTON LLP**

Attorneys at Law

Suite 2800 1100 Peachtree St.  
Atlanta GA 30309-4530  
t 404 815 6500 f 404 815 6555  
www.KilpatrickStockton.comDate: August 1, 2003direct dial 404 541 6681  
direct fax 404 541 3317  
EMusick@KilpatrickStockton.com**FAX**

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Janina Malone 404-745-2421	404-815-6555	Kilpatrick Stockton Atlanta, GA

Isabelle Guyon  
FROM3

PAGES (WITH COVER)

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CLIENT/MATTER NO.

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**COMMENTS**

Inventor's Response (02331/0161)

**EXHIBIT**

tabbles

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AUG 2 9 2003

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ISABELLE GUYON  
955 CRESTON ROAD  
BERKELEY, CA 94708  
510 524 6211  
ISABELLE@CLOPINET.COM

August 01, 2003

Eleanor Musick  
Suite 2800, 1100 Peachtree St.  
Atlanta, GA 30309-4530  
Tel: 404 815 6500 / direct 404 541 6681  
Fax: 404 815 6555 / direct 404 541 3317  
Email: Musick@KilpatrickStockton.com

Re: US patent application for "Methods for identifying patterns in biological systems and uses thereof"

Serial no:10/057/849

Filed: January 24, 2002

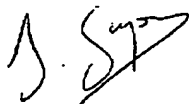
KS Ref: 02331-0161 (42286/267669)

Dear Ms. Musick,

Thank you for sending me this new application for reviewing. Since our last correspondence, I have not heard from Dr. Barnhill, regarding the expense approval for my compensation from the bankruptcy court. Therefore, I am unable to perform the careful review of your material that would be required to sign the declaration that you sent me, which engages my responsibility.

However, as a courtesy to you, I reviewed the claims. Claim 1 is way too broad. It covers a wide range of techniques that have been in use for many years. See e.g. (LeCun, 1990) **Optimum Brain Damage**, Y. Le Cun, J.S. Denker, and S.A. Solla. In D. Touretzky Ed. *Advances in Neural Information Processing Systems 2*. Pp 598-605, Morgan Kaufmann. 1990, and (Kohavi, 1997) **Wrappers for feature subset selection**. Ron Kohavi and George John. In *Artificial Intelligence journal*, special issue on relevance, Vol. 97, Nos 1- 2, pp. 273-324. Claims 2, 3, 4 would be OK. Claim 5, 6, 7, 8, 9, and 10 should refer to claim 2 (that should become claim 1).

Best regards



Isabelle Guyon

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## INVENTOR'S RESPONSE

With regard to U.S. Patent Application for "Methods for Identifying Patterns in Biological Systems and Uses Thereof", Serial No. 10/057,849, filed January 24, 2002, on which I have been named an inventor, I, Isabelle Guyon:

(pls. check (✓ or × where applicable)

☒ have received a copy of each of the listed documents:  
application entitled "Methods for Identifying Patterns in Biological Systems and  
Uses Thereof" (124 pages total including 10 claims)  
Drawings (Figures 1-31)  
Declaration and Power of Attorney (2 pages)

☒ refuse to or am otherwise unable to execute and return the enclosed declaration.

My consulting fees to perform the patent review have not been approved by the bankruptcy court of Barnhill/Biowulf. Therefore, I am unable to perform the careful review of the patent that would be required to sign the enclosed declaration, which engages my responsibility. However, as a courtesy, I reviewed the claims. Claim 1 is way too broad. It covers a wide range of techniques that have been in use for many years. See e.g. (LeCun, 1990) **Optimum Brain Damage**, Y. Le Cun, J.S. Denker, and S.A. Solla. In D. Touretzky Ed. *Advances in Neural Information Processing Systems 2*. Pp 598-605, Morgan Kaufmann. 1990, and (Kohavi, 1997) **Wrappers for feature subset selection**. Ron Kohavi and George John. In *Artificial Intelligence journal*, special issue on relevance, Vol. 97, Nos 1-2, pp. 273-324. Claims 2, 3, 4 would be OK. Claim 5, 6, 7, 8, 9, and 10 should refer to claim 2 (that should become claim 1).

Signed: \_\_\_\_\_

Isabelle Guyon

August 1, 2003

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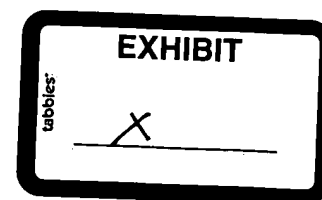
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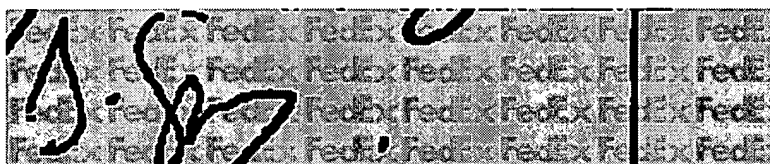
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